

United States District Court

NORTHERN DISTRICT OF WEST VIRGINIA JAN 28 2008

In the Matter of the Search of

PATRICK ANDREWS
DATE OF BIRTH: 08/01/1980

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER: 1:08mj 9

I, Gary A. Wheeler, being duly sworn depose and say:

I am a Special Agent of the Federal Bureau of Investigation, and have reason to believe
Official Title

that /x/ on the person of or / / on the property or premises known as

PATRICK ANDREWS
DATE OF BIRTH: 08/01/1980

in the Northern District of West Virginia
there is now concealed property, namely, DNA (deoxyribonucleic acid) evidence, i.e., blood, saliva,
and hair.

The facts to support a finding of Probable Cause are as follows:

SEE Affidavit of FBI Special Agent Gary A. Wheeler, which is incorporated as part of this
Application and Affidavit for Search Warrant.

Continued on the attached sheet and made a part hereof. /x/ Yes / / No

Gary A. Wheeler
Signature of Affiant

Sworn to before me, and subscribed in my presence

September 28, 2008 at Clarksburg, West Virginia
Date City and State

John S. Kaull, U.S. Magistrate Judge
Name and Title of Judicial Officer

John S. Kaull
Signature of Judicial Officer

AFFIDAVIT

STATE OF WEST VIRGINIA

County of Harrison, to wit:

I, Gary A. Wheeler, being duly sworn, do hereby depose and state as follows:

Background

1. I am a Special Agent of the Federal Bureau of Investigation, currently assigned to the Pittsburgh Division, Clarksburg, WV Resident Agency. I have been a Special Agent for approximately eighteen years and am a Federal law enforcement officer within the meaning of Fed. R. Crim. P. 41(a)(2)(C). My duties as a Special Agent include the investigation of a wide range of Federal criminal offenses, including violent crimes, white collar crimes, criminal enterprises, and crimes on Federal government reservations. I am currently assigned to investigate Federal crimes occurring within United States Bureau of Prisons facilities within the Northern District of West Virginia.
2. I am the lead investigating Special Agent in the investigation of the murder of inmate Jesse Harris while he was incarcerated at the United States Penitentiary, Hazelton, West Virginia, in violation of Title 18 of the United States Code, Section 1118, entitled Murder by a Federal Prisoner; and Title 18 of the United States Code, Section 1111 (b), entitled Murder, Within the Special Maritime Jurisdiction of the United States. This affidavit is made in support of a search warrant for physical evidence, that is, DNA (deoxyribonucleic acid) evidence, i.e., blood and saliva samples, as well as hair samples, both clipped and pulled, from Patrick Andrews, an inmate at the United States Penitentiary, Hazelton, West Virginia.

3. The statements contained in this affidavit are based on facts I learned in this investigation and information provided to me directly by other individuals, including law enforcement officials. I have not included every fact known to law enforcement concerning this investigation, but have included sufficient facts as I believe necessary to establish probable cause to believe that Mr. Andrews committed the offenses of Murder by a Federal Prisoner, in violation of United States Code, Section 1118, and Murder Within the Special Maritime Jurisdiction of the United States in violation of Title 18 of the United States Code, Section 1111 (b), and that upon his person is physical evidence of that crime.

4. Mr. Andrews is more particularly identified as Patrick Andrews, a black male, born on August 1, 1980, having United States Bureau of Prisons register number 12550-007, Federal Bureau of Investigation criminal identification number 346742JB3, Social Security number 547-04-4419, black hair, and brown eyes.

The Investigation

5. On October 07, 2007 at approximately 6:28 p.m., a fight occurred at the United States Penitentiary, Hazelton, West Virginia resulting in the death of Mr. Harris. I have reviewed reports prepared by Corrections Officers C. Reshenberg and Charles Whipkey, who observed portions of the fight. Both Corrections Officers observed Mr. Harris and inmate Kevin Bellinger involved in a fight in the "Yellow Corridor" near the Y-3 Grill. As Corrections Officer Whipkey approached, he observed that Mr. Bellinger was stabbing Mr. Harris with an unknown weapon. As both Corrections Officers approached, Mr. Bellinger ran from them, ignoring several orders to stop. During the apprehension of Mr. Bellinger, he discarded his weapon among other inmates and the weapon could not

be located by Corrections Officers. Mr. Bellinger was captured and detained by Corrections Officer Whipkey and other responding staff.

6. United States Penitentiary Special Investigative Agent Bryan Antonelli reported to your affiant, his review of video surveillance equipment in the institution revealed a second inmate had been involved in the fight, but had left the area unnoticed as Corrections Officers were chasing Mr. Bellinger. Utilizing recorded footage of the surveillance system, Corrections Officers followed the unknown inmate to his cell. Through a review cell assignments and inmate photographs, Corrections Officers identified the second inmate as Mr. Andrews.

7. Further review of the video surveillance system revealed as Mr. Andrews left the scene of the fight, he removed his shirt, gray in color, and placed it in a trashcan in the Yellow Corridor. Inspection of the trash discovered a gray shirt with a fabricated metal weapon wrapped in it. Both the shirt and the weapon appeared to have blood on them and both were recovered as evidence.

8. Analysis of the video surveillance system also revealed Mr. Andrews was wearing gray athletic shorts during the assault. Mr. Andrews was observed on the video recording to remove these shorts and discard them in the Yellow Corridor near the indoor recreation area door. Inspection of this area by Corrections Officers discovered the shorts in the same area. These shorts were also recovered as evidence and appeared to have blood on them.

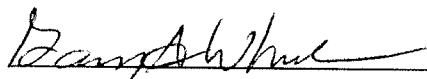
9. United States Penitentiary Special Investigative Technician Robert Poissonnier witnessed the autopsy of Mr. Harris by the West Virginia State Medical Examiner's Office and reported preliminary verbal results to your affiant. According to Mr.

Poissonnier, Mr. Harris received numerous stab wounds with two different weapons causing his death.

9. Your affiant believes Mr. Andrews and Mr. Bellinger assaulted Mr. Harris with fabricated weapons resulting in several stab wounds causing his death. Your affiant further believes that upon the person of Mr. Andrews there exists evidence of the offenses of Murder by a Federal Prisoner, in violation of United States Code, Section 1118, and Murder Within the Special Maritime Jurisdiction of the United States in violation of Title 18 of the United States Code, Section 1111 (b), specifically his blood (two vials, EDTA tube) and saliva specimens (two swabs), as well as head hair (both pulled and clipped).

Conclusion

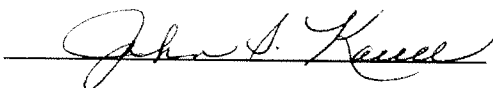
10. Your affiant respectfully requests a search warrant, authorizing the search of the person of Mr. Andrews and seizure from his person of his blood (two vials, EDTA tube) and saliva specimens (two swabs), as well as head hair (both pulled and clipped).



Special Agent, Federal Bureau of Investigation

Subscribed and sworn

Before me this 28 of January 2008



U.S. MAGISTRATE JUDGE